



**Filed: 3/1/2006**

09400HB4885ham006

LRB094 18448 RLC 56911 a

1 AMENDMENT TO HOUSE BILL 4885

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4885 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing  
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person ~~who has not previously~~  
8 ~~been convicted of, or placed on probation or court supervision~~  
9 ~~for, any offense under this Act or any law of the United States~~  
10 ~~or of any State relating to cannabis, or controlled substances~~  
11 ~~as defined in the Illinois Controlled Substances Act,~~ pleads  
12 guilty to or is found guilty of violating Sections 4(a), 4(b),  
13 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without  
14 entering a judgment and with the consent of such person,  
15 sentence him or her to probation pursuant to the terms of this  
16 Section.

17 (b) When a person is placed on probation, the court shall  
18 enter an order specifying a period of probation of 6 to 36 ~~24~~  
19 months, and shall defer further proceedings in the case until  
20 the conclusion of the period or until the filing of a petition  
21 alleging violation of a term or condition of probation.

22 (c) The conditions of probation shall be that the person:  
23 (1) not violate any criminal statute of any jurisdiction; (2)  
24 refrain from possession of a firearm or other dangerous weapon;

1 (3) submit to periodic drug testing at a time and in a manner  
2 as ordered by the court, but no less than 3 times during the  
3 period of the probation, with the cost of the testing to be  
4 paid by the probationer; ~~and~~ (4) perform no less than 30 hours  
5 of community service, provided community service is available  
6 in the jurisdiction; and (5) for first and second time  
7 offenders, attend a drug school program, provided a drug school  
8 program is available. For third time offenders, the State's  
9 Attorney of the county in which the offense was committed may  
10 recommend and the court shall order the offender to attend a  
11 drug school program, provided a drug school program is  
12 available. If a drug school program is not available, the court  
13 shall seek recommendations for treatment or other intervention  
14 by a licensed program designated by the State to provide  
15 assessment services to the courts ~~and is funded and approved by~~  
16 ~~the county board.~~

17 (d) The court may, in addition to other conditions, require  
18 that the person:

19 (1) make a report to and appear in person before or  
20 participate with the court or such courts, person, or  
21 social service agency as directed by the court in the order  
22 of probation;

23 (2) pay a fine and costs;

24 (3) work or pursue a course of study or vocational  
25 training;

26 (4) undergo medical or psychiatric treatment; or  
27 treatment for drug addiction or alcoholism;

28 (5) attend or reside in a facility established for the  
29 instruction or residence of defendants on probation;

30 (6) support his dependents;

31 (7) refrain from possessing a firearm or other  
32 dangerous weapon;

33 (7-5) refrain from having in his or her body the  
34 presence of any illicit drug prohibited by the Cannabis

1 Control Act, the Illinois Controlled Substances Act, or the  
2 Methamphetamine Control and Community Protection Act,  
3 unless prescribed by a physician, and submit samples of his  
4 or her blood or urine or both for tests to determine the  
5 presence of any illicit drug;

6 (7-6) undergo treatment under the supervision of a  
7 licensed program designated by the Department of Human  
8 Services, and according to the terms of Article 40 of the  
9 Alcoholism and Other Drug Abuse and Dependency Act;

10 (8) and in addition, if a minor:

11 (i) reside with his parents or in a foster home;

12 (ii) attend school;

13 (iii) attend a non-residential program for youth;

14 (iv) contribute to his own support at home or in a  
15 foster home.

16 (d-1) In addition to any other criminal or administrative  
17 sanction for any second conviction of violating Section 4(a),  
18 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act or a similar law  
19 of another state or of the United States committed within 5  
20 years of a previous violation of Section 4(a), 4(b), 4(c),  
21 5(a), 5(b), 5(c), or 8 of this Act or a similar law of another  
22 state or of the United States, the defendant shall be sentenced  
23 to a mandatory minimum of 5 days of imprisonment or assigned a  
24 mandatory minimum of 40 hours of community service as may be  
25 determined by the court.

26 (d-2) In addition to any other criminal or administrative  
27 sanction for any third conviction of violating Section 4(a),  
28 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act or a similar law  
29 of another state or of the United States committed within 5  
30 years of a previous violation of Section 4(a), 4(b), 4(c),  
31 5(a), 5(b), 5(c), or 8 of this Act or a similar law of another  
32 state or of the United States, the defendant shall be sentenced  
33 to a mandatory minimum of 10 days of imprisonment or assigned a  
34 mandatory minimum of 80 hours of community service as may be

1 determined by the court.

2 (d-3) Whenever any person who has previously been convicted  
3 of, or placed on probation or court supervision for, any  
4 offense under this Act or any law of the United States or of  
5 any state relating to cannabis or controlled substances pleads  
6 guilty to or is found guilty of possession of cannabis under  
7 this Act, that person also may be required to undergo (i) an  
8 assessment conducted by a licensed program designated by the  
9 State to provide assessment services to the courts to determine  
10 if an alcohol, drug, or intoxicating compound abuse problem  
11 exists and the extent of the problem, and (ii) a professional  
12 mental health screening, and undergo the imposition of  
13 treatment as appropriate. Whenever the professional evaluation  
14 or mental health screening recommends remedial or  
15 rehabilitative treatment or education, the court may monitor  
16 compliance with any remedial education or treatment  
17 recommendations contained in the professional evaluation or  
18 mental health screening. Assessments or screenings under this  
19 subsection (d-3) shall be conducted by an agent independent of  
20 any treatment provider to which the person may be referred.

21 (e) Upon violation of a term or condition of probation, the  
22 court may enter a judgment on its original finding of guilt and  
23 proceed as otherwise provided.

24 (f) Upon fulfillment of the terms and conditions of  
25 probation, the court shall discharge such person and dismiss  
26 the proceedings against him.

27 (g) A disposition of probation is considered to be a  
28 conviction for the purposes of imposing the conditions of  
29 probation and for appeal, however, discharge and dismissal  
30 under this Section is not a conviction for purposes of  
31 disqualification or disabilities imposed by law upon  
32 conviction of a crime (including the additional penalty imposed  
33 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
34 of this Act).

1           (h) (Blank). ~~Discharge and dismissal under this Section,~~  
2 ~~Section 410 of the Illinois Controlled Substances Act, or~~  
3 ~~Section 70 of the Methamphetamine Control and Community~~  
4 ~~Protection Act may occur only once with respect to any person.~~

5           (h-1) A sentence of probation under this Section is  
6 immediately expungeable upon the successful completion of the  
7 probation.

8           (i) If a person is convicted of an offense under this Act,  
9 the Illinois Controlled Substances Act, or the Methamphetamine  
10 Control and Community Protection Act within 5 years subsequent  
11 to a discharge and dismissal under this Section, the discharge  
12 and dismissal under this Section shall be admissible in the  
13 sentencing proceeding for that conviction as a factor in  
14 aggravation.

15           (j) A person is not eligible for a disposition of probation  
16 under this Section if he or she has during the course of the  
17 act giving rise to the offense under Section 4(a), 4(b), 4(c),  
18 5(a), 5(b), 5(c), or 8 of this Act committed any violation of  
19 Section 5.1, 5.2, or 7 of this Act, any violation of Section  
20 401, 405, 405.1, 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2,  
21 or 408 of the Illinois Controlled Substances Act, any violation  
22 of the Methamphetamine Control and Community Protection Act  
23 involving the manufacture, delivery, or possession with intent  
24 to deliver of methamphetamine or a methamphetamine precursor,  
25 or any offense that is a violent crime under the Rights of  
26 Crime Victims and Witnesses Act.

27 (Source: P.A. 94-556, eff. 9-11-05.)

28           Section 10. The Illinois Controlled Substances Act is  
29 amended by changing Section 410 as follows:

30           (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

31           Sec. 410. (a) Whenever any person ~~who has not previously~~  
32 ~~been convicted of, or placed on probation or court supervision~~

1 ~~for any offense under this Act or any law of the United States~~  
2 ~~or of any State relating to cannabis or controlled substances,~~  
3 pleads guilty to or is found guilty of possession of a  
4 controlled or counterfeit substance under subsection (c) of  
5 Section 402, the court, without entering a judgment and with  
6 the consent of such person, may sentence him or her to  
7 probation pursuant to the terms of this Section.

8 (b) When a person is placed on probation, the court shall  
9 enter an order specifying a period of probation of 6 to 36 ~~24~~  
10 months and shall defer further proceedings in the case until  
11 the conclusion of the period or until the filing of a petition  
12 alleging violation of a term or condition of probation.

13 (c) The conditions of probation shall be that the person:  
14 (1) not violate any criminal statute of any jurisdiction; (2)  
15 refrain from possessing a firearm or other dangerous weapon;  
16 (3) submit to periodic drug testing at a time and in a manner  
17 as ordered by the court, but no less than 3 times during the  
18 period of the probation, with the cost of the testing to be  
19 paid by the probationer; ~~and~~ (4) perform no less than 30 hours  
20 of community service, provided community service is available  
21 in the jurisdiction; and (5) for first and second time  
22 offenders, attend a drug school program, provided a drug school  
23 program is available. For third time offenders, the State's  
24 Attorney of the county in which the offense was committed may  
25 recommend and the court shall order the offender to attend a  
26 drug school program, provided a drug school program is  
27 available. If a drug school program is not available, the court  
28 shall seek recommendations for treatment or other intervention  
29 by a licensed program designated by the State to provide  
30 assessment services to the courts ~~and is funded and approved by~~  
31 ~~the county board.~~

32 (d) The court may, in addition to other conditions, require  
33 that the person:

34 (1) make a report to and appear in person before or

1 participate with the court or such courts, person, or  
2 social service agency as directed by the court in the order  
3 of probation;

4 (2) pay a fine and costs;

5 (3) work or pursue a course of study or vocational  
6 training;

7 (4) undergo medical or psychiatric treatment; or  
8 treatment or rehabilitation approved by the Illinois  
9 Department of Human Services;

10 (5) attend or reside in a facility established for the  
11 instruction or residence of defendants on probation;

12 (6) support his dependents;

13 (6-5) refrain from having in his or her body the  
14 presence of any illicit drug prohibited by the Cannabis  
15 Control Act, the Illinois Controlled Substances Act, or the  
16 Methamphetamine Control and Community Protection Act,  
17 unless prescribed by a physician, and submit samples of his  
18 or her blood or urine or both for tests to determine the  
19 presence of any illicit drug;

20 (6-6) undergo treatment under the supervision of a  
21 licensed program designated by the Department of Human  
22 Services, and according to the terms of Article 40 of the  
23 Alcoholism and Other Drug Abuse and Dependency Act;

24 (7) and in addition, if a minor:

25 (i) reside with his parents or in a foster home;

26 (ii) attend school;

27 (iii) attend a non-residential program for youth;

28 (iv) contribute to his own support at home or in a  
29 foster home.

30 (d-1) In addition to any other criminal or administrative  
31 sanction for any second conviction of violating subsection (c)  
32 of Section 402 or a similar law of another state or of the  
33 United States committed within 5 years of a previous violation  
34 of subsection (c) of Section 402 or a similar law of another

1 state or of the United States, the defendant shall be sentenced  
2 to a mandatory minimum of 5 days of imprisonment or assigned a  
3 mandatory minimum of 40 hours of community service as may be  
4 determined by the court.

5 (d-2) In addition to any other criminal or administrative  
6 sanction for any third conviction of violating subsection (c)  
7 of Section 402 or a similar law of another state or of the  
8 United States committed within 5 years of a previous violation  
9 of subsection (c) of Section 402 or a similar law of another  
10 state or of the United States, the defendant shall be sentenced  
11 to a mandatory minimum of 10 days of imprisonment or assigned a  
12 mandatory minimum of 80 hours of community service as may be  
13 determined by the court.

14 (d-3) Whenever any person who has previously been convicted  
15 of, or placed on probation or court supervision for, any  
16 offense under this Act or any law of the United States or of  
17 any state relating to cannabis or controlled substances pleads  
18 guilty to or is found guilty of possession of a controlled  
19 substance under this Act, that person also may be required to  
20 undergo (i) an assessment conducted by a licensed program  
21 designated by the State to provide assessment services to the  
22 courts to determine if an alcohol, drug, or intoxicating  
23 compound abuse problem exists and the extent of the problem,  
24 and (ii) a professional mental health screening, and undergo  
25 the imposition of treatment as appropriate. Whenever the  
26 professional evaluation or mental health screening recommends  
27 remedial or rehabilitative treatment or education, the court  
28 may monitor compliance with any remedial education or treatment  
29 recommendations contained in the professional evaluation or  
30 mental health screening. Assessments or screenings under this  
31 subsection (d-3) shall be conducted by an agent independent of  
32 any treatment provider to which the person may be referred.

33 (e) Upon violation of a term or condition of probation, the  
34 court may enter a judgment on its original finding of guilt and

1 proceed as otherwise provided.

2 (f) Upon fulfillment of the terms and conditions of  
3 probation, the court shall discharge the person and dismiss the  
4 proceedings against him.

5 (g) A disposition of probation is considered to be a  
6 conviction for the purposes of imposing the conditions of  
7 probation and for appeal, however, discharge and dismissal  
8 under this Section is not a conviction for purposes of this Act  
9 or for purposes of disqualifications or disabilities imposed by  
10 law upon conviction of a crime.

11 (h) (Blank). ~~There may be only one discharge and dismissal~~  
12 ~~under this Section, Section 10 of the Cannabis Control Act, or~~  
13 ~~Section 70 of the Methamphetamine Control and Community~~  
14 ~~Protection Act with respect to any person.~~

15 (h-1) A sentence of probation under this Section is  
16 immediately expungeable upon the successful completion of the  
17 probation.

18 (i) If a person is convicted of an offense under this Act,  
19 the Cannabis Control Act, or the Methamphetamine Control and  
20 Community Protection Act within 5 years subsequent to a  
21 discharge and dismissal under this Section, the discharge and  
22 dismissal under this Section shall be admissible in the  
23 sentencing proceeding for that conviction as evidence in  
24 aggravation.

25 (j) A person is not eligible for a disposition of probation  
26 under this Section if he or she has during the course of the  
27 act giving rise to the offense under Section 402 of this Act  
28 committed any violation of Section 5, 5.1, 5.2, 7, or 8 of the  
29 Cannabis Control Act, any violation of Section 401, 405, 405.1,  
30 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of this  
31 Act, any violation of the Methamphetamine Control and Community  
32 Protection Act involving the manufacture, delivery, or  
33 possession with intent to deliver of methamphetamine or a  
34 methamphetamine precursor, or any offense that is a violent

1 crime under the Rights of Crime Victims and Witnesses Act.

2 (Source: P.A. 94-556, eff. 9-11-05.)

3 Section 15. The Methamphetamine Control and Community  
4 Protection Act is amended by changing Section 70 as follows:

5 (720 ILCS 646/70)

6 Sec. 70. Probation.

7 (a) Whenever any person ~~who has not previously been~~  
8 ~~convicted of, or placed on probation or court supervision for~~  
9 ~~any offense under this Act, the Illinois Controlled Substances~~  
10 ~~Act, the Cannabis Control Act, or any law of the United States~~  
11 ~~or of any state relating to cannabis or controlled substances,~~  
12 pleads guilty to or is found guilty of possession of less than  
13 15 grams of methamphetamine under paragraph (1) or (2) of  
14 subsection (b) of Section 60 of this Act, the court, without  
15 entering a judgment and with the consent of the person, may  
16 sentence him or her to probation pursuant to the terms of this  
17 Section.

18 (b) When a person is placed on probation, the court shall  
19 enter an order specifying a period of probation of 6 to 36 ~~24~~  
20 months and shall defer further proceedings in the case until  
21 the conclusion of the period or until the filing of a petition  
22 alleging violation of a term or condition of probation.

23 (c) The conditions of probation shall be that the person:

24 (1) not violate any criminal statute of any  
25 jurisdiction;

26 (2) refrain from possessing a firearm or other  
27 dangerous weapon;

28 (3) submit to periodic drug testing at a time and in a  
29 manner as ordered by the court, but no less than 3 times  
30 during the period of the probation, with the cost of the  
31 testing to be paid by the probationer; ~~and~~

32 (4) perform no less than 30 hours of community service,

1 if community service is available in the jurisdiction; and  
2 ~~and is funded and approved by the county board.~~

3 (5) for first and second time offenders, attend a drug  
4 school program, provided a drug school program is  
5 available. For third time offenders, the State's Attorney  
6 of the county in which the offense was committed may  
7 recommend and the court shall order the offender to attend  
8 a drug school program, provided a drug school program is  
9 available. If a drug school program is not available, the  
10 court shall seek recommendations for treatment or other  
11 intervention by a licensed program designated by the State  
12 to provide assessment services to the courts.

13 (d) The court may, in addition to other conditions, require  
14 that the person take one or more of the following actions:

15 (1) make a report to and appear in person before or  
16 participate with the court or such courts, person, or  
17 social service agency as directed by the court in the order  
18 of probation;

19 (2) pay a fine and costs;

20 (3) work or pursue a course of study or vocational  
21 training;

22 (4) undergo medical or psychiatric treatment; or  
23 treatment or rehabilitation approved by the Illinois  
24 Department of Human Services;

25 (5) attend or reside in a facility established for the  
26 instruction or residence of defendants on probation;

27 (6) support his or her dependents;

28 (7) refrain from having in his or her body the presence  
29 of any illicit drug prohibited by this Act, the Cannabis  
30 Control Act, or the Illinois Controlled Substances Act,  
31 unless prescribed by a physician, and submit samples of his  
32 or her blood or urine or both for tests to determine the  
33 presence of any illicit drug;

34 (7-5) undergo treatment under the supervision of a

1       licensed program designated by the Department of Human  
2       Services, and according to the terms of Article 40 of the  
3       Alcoholism and Other Drug Abuse and Dependency Act; or

4           (8) if a minor:

5               (i) reside with his or her parents or in a foster  
6           home;

7               (ii) attend school;

8               (iii) attend a non-residential program for youth;

9           or

10               (iv) contribute to his or her own support at home  
11           or in a foster home.

12       (d-1) In addition to any other criminal or administrative  
13       sanction for any second conviction of violating this Act or a  
14       similar law of another state or of the United States committed  
15       within 5 years of a previous violation of this Act or a similar  
16       law of another state or of the United States, the defendant  
17       shall be sentenced to a mandatory minimum of 5 days of  
18       imprisonment or assigned a mandatory minimum of 40 hours of  
19       community service as may be determined by the court.

20       (d-2) In addition to any other criminal or administrative  
21       sanction for any third conviction of violating this Act or a  
22       similar law of another state or of the United States committed  
23       within 5 years of a previous violation of this Act or a similar  
24       law of another state or of the United States, the defendant  
25       shall be sentenced to a mandatory minimum of 10 days of  
26       imprisonment or assigned a mandatory minimum of 80 hours of  
27       community service as may be determined by the court.

28       (d-3) Whenever any person who has previously been convicted  
29       of, or placed on probation or court supervision for, any  
30       offense under this Act or any law of the United States or of  
31       any state relating to cannabis or controlled substances pleads  
32       guilty to or is found guilty of possession of methamphetamine  
33       under this Act, that person also may be required to undergo (i)  
34       an assessment conducted by a licensed program designated by the

1 State to provide assessment services to the courts to determine  
2 if an alcohol, drug, or intoxicating compound abuse problem  
3 exists and the extent of the problem, and (ii) a professional  
4 mental health screening, and undergo the imposition of  
5 treatment as appropriate. Whenever the professional evaluation  
6 or mental health screening recommends remedial or  
7 rehabilitative treatment or education, the court may monitor  
8 compliance with any remedial education or treatment  
9 recommendations contained in the professional evaluation or  
10 mental health screening. Assessments or screenings under this  
11 subsection (d-3) shall be conducted by an agent independent of  
12 any treatment provider to which the person may be referred.

13 (e) Upon violation of a term or condition of probation, the  
14 court may enter a judgment on its original finding of guilt and  
15 proceed as otherwise provided.

16 (f) Upon fulfillment of the terms and conditions of  
17 probation, the court shall discharge the person and dismiss the  
18 proceedings against the person.

19 (g) A disposition of probation is considered to be a  
20 conviction for the purposes of imposing the conditions of  
21 probation and for appeal, however, discharge and dismissal  
22 under this Section is not a conviction for purposes of this Act  
23 or for purposes of disqualifications or disabilities imposed by  
24 law upon conviction of a crime.

25 (h) ~~(Blank). There may be only one discharge and dismissal~~  
26 ~~under this Section, Section 410 of the Illinois Controlled~~  
27 ~~Substances Act, or Section 10 of the Cannabis Control Act with~~  
28 ~~respect to any person.~~

29 (h-1) A sentence of probation under this Section is  
30 immediately expungeable upon the successful completion of the  
31 probation.

32 (i) If a person is convicted of an offense under this Act,  
33 the Cannabis Control Act, or the Illinois Controlled Substances  
34 Act within 5 years subsequent to a discharge and dismissal

1 under this Section, the discharge and dismissal under this  
2 Section are admissible in the sentencing proceeding for that  
3 conviction as evidence in aggravation.

4 (j) A person is not eligible for a disposition of probation  
5 under this Section if he or she has during the course of the  
6 act giving rise to the offense under this Act committed any  
7 violation of Section 5, 5.1, 5.2, 7, or 8 of the Cannabis  
8 Control Act, any violation of Section 401, 405, 405.1, 405.2,  
9 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of the Illinois  
10 Controlled Substances Act, any violation of this Act involving  
11 the manufacture, delivery, or possession with intent to deliver  
12 of methamphetamine or a methamphetamine precursor, or any  
13 offense that is a violent crime under the Rights of Crime  
14 Victims and Witnesses Act.

15 (Source: P.A. 94-556, eff. 9-11-05.)".